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IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 2915 of 2007

Sarvasiddhi Krishnamohan
Venketakrishnasitarama Swami .. Applicant

versus

State of Maharashtra .. Respondent

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Mr.A.M. Saraogi i/b Ms.Kranti S. Anand for the applicant.
Mr.K.V. Saste, APP for the State.

CORAM : D.G.KARNIK, J
DATED : 22nd November 2007

P.C.:

1. Heard learned counsel for the applicant and learned APP for the State.

2. This application under section 438 of the Code of Criminal Procedure is made for Anticipatory bail in connection with C.R. No.64 of 2007

registered at Oshiwara police station (transferred to Anti-Extortion Cell, ACP CID, Mumbai) for offences punishable under section 406, 465, 467, 468, 471, 420 506 (II) r/w section 34 and 120B of the IPC.

3. The case of the prosecution, in brief is that the applicant floated several private limited companies and applicant was in charge and control of the said private limited companies. The applicant through the said Private Limited Companies approached the complainant who is an advertising agent for several newspapers. The applicant through his companies was appointed as sub-agent by the complainant for collecting the advertisements to be published in the newspapers. The applicant collected the advertisements which were got published by the complainant. The applicant through the said companies owned to the complainant sum of Rs.82 lakhs. The applicant has issued cheques to the extent of Rs.16.14 lakhs towards part payment. The cheques have bounced. Criminal prosecution under section 138 of the Negotiable Instruments Act has already been filed against the complainant in respect of the bounced cheques.

4. On 14th August 2007, the complainant filed a First Information Report with the Oshiwara police

station. Apart from alleging that the applicant had cheated the complainant by getting the advertisements published in various newspaper without paying for them one more serious allegation was made against the applicant. It is stated in the First Information Report that on 8th July 2006 when the complainant had gone to the company of the applicant for demanding money, the complainant called two unknown persons who sat on the both sides of the complainant. The said persons had the pistol tugged to their waist. The said two unknown persons threatened the applicant with his life. They told the complainant not to make any complaint to the police and called upon the complainant to give copies of the advertisements published in the newspapers. They then called the complainant on 9th July 2006 where they asked the complainant to settle the matter by receiving only Rs.4 lakhs in place to his use.

5. Learned APP submits that the offence is grave and the presence of the applicant is necessary for custodial investigation in connection with the threatening and attempt of extortion of money. The extortion alleged is giving up of the claim of Rs.82 lakhs by receiving only Rs.4 lakhs.

6. As regards the offence of cheating, it

appears that there is a civil dispute between the parties. According to the complainant, Rs.82 lakhs are due while according to the applicant much smaller amount is due. He is also facing a prosecution in respect of the bounced cheques in which a bail has already been granted.

7. As regards the threat of extortion and alleged threats given on 8th July and 9th July 2006, First Information Report has been lodged on 14th August 2007 i.e. after lapse of 13 months. The delay in lodging the First Information Report is not satisfactorily explained.

8. Offence has been registered against the applicant as well as one of his employees. Both of them had previously applied to the Sessions Judge for anticipatory bail. Though the employee was granted bail, the applicant was denied bail vide order dated 29th August 2007.

9. Considering the fact that the dispute regarding the recovery of money appears to be civil dispute and considering the fact that the delay of 13 months in lodging of FIR regarding the threats of extortion is not satisfactorily explained, in my view, the applicant is entitled to anticipatory bail.

Accordingly, I pass the following order:-

**O R D E R**

. In the event of the arrest of the accused in connection with C.R. No. 64 of 2007, the applicant shall be released on bail on personal bond of Rs. One lakh with one or two sureties to make up the aggregate amount of Rs.One lakh subject to the following conditions:-

i) The applicant shall not make any inducement or threats to the prosecution witnesses.

ii) The applicant shall report twice a week at the concerned anti extortion cell of the police. He shall attend on every Monday and Thursday between 10.00 a.m. and 11.00 a.m.

iii) The applicant shall co-operate with the investigation.

. Any breach of the conditions of above shall result in the cancellation of this order.

(D.G. KARNIK, J)